

02-16-07

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AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, Colorado 80537-0599

ATTORNEY DOCKET NO. 10004031-2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): John F. McEntee

Serial No.: 10/691,037

Examiner: Jeff H. Aftergut

Filing Date: October 21, 2003

Group Art Unit: 1733

Title: SEPTUM

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria VA 22313-1450

## TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- ☐ Response/Amendment ☐ Petition to extend time to respond  
☐ New fee as calculated below ☐ Supplemental Declaration  
☒ No additional fee (Address envelope to "Mail Stop Amendments")  
☒ Other: Petition to the Commissioner Under 37 CFR 1.181, Copy of RCE filed by fax, (Fee \$ )  
 copy of return receipt fax confirmation and two return postcards

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X 50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X 200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ 300	\$ 0
EXTENSION FEE	1 <sup>ST</sup> MONTH 120.00 <input type="checkbox"/>	2 <sup>ND</sup> MONTH 450.00 <input type="checkbox"/>	3 <sup>RD</sup> MONTH 1020.00 <input type="checkbox"/>	4 <sup>TH</sup> MONTH 1590.00 <input type="checkbox"/>		\$ 0
OTHER FEES						\$ 0
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 50-1078 pursuant to 37 CFR 1.2 5. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this transmittal letter is enclosed.

"Express Mail" label no. EV 687 639 232 US

Date of Deposit: February 14, 2007

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Typed Name: Sandra D. Hunter

Signature: 

Respectfully submitted,

John F. McEntee

By 

Bret E. Field for John Brady  
Attorney/Agent for Applicant(s)

Reg. No. 37,620

Date: February 14, 2007

Telephone No. (408) 553-3584





Atty Dkt. No.: 10004031-2  
USSN: 10/691,037

EXPRESS MAIL NO. EV 687 639 232 US

<b>PETITION TO THE COMMISSIONER UNDER 37 C.F.R. § 1.181</b>  Address to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Attorney Docket	10004031-2
	First Named Inventor	John F. McEntee
	Application Number	10/691,037
	Filing Date	October 21, 2003
	Group Art Unit	1733
	Examiner Name	Jeff H. Aftergut
	Title:	"SEPTUM"

Sir:

This petition is submitted to the Commissioner of Patents and Trademarks under 37 C.F.R. § 1.181(a). This Petition is being filed in response to the Notice of Abandonment dated January 23, 2007.

Applicant hereby petitions for withdrawal of the holding of abandonment in the present application.

The Patent Office incorrectly indicated that the application was abandoned for failure to file a notice of appeal subsequent to the Final Rejection dated June 19, 2006. This holding of abandonment is in error.

The Applicants file a response to the Final Rejection on August 9, 2006. An Advisory Action was issued on August 23, 2006.

A Request for Continued Prosecution (RCE) was timely filed by Facsimile on September 18, 2006. The following evidentiary items are provided herewith to establish that the correspondence was timely filed:

- 1) a copy of the RCE as filed by facsimile with the United States Patent Office on August 9, 2006; and



- 2) a copy of the return receipt confirmation of the facsimile transmission received by the Office.

In view of the above, it is submitted that the holding of abandonment has been in error and the Office is respectfully requested to withdraw the holding of abandonment for this application.

While no fee is believed due, the Commissioner is hereby authorized to charge any fees which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1078.

Respectfully submitted,

Date: February 14, 2007

By: 

Bret E. Field  
Registration No. 37,620

encs:

- Copy of RCE
- Copy of Confirmation of Receipt of Facsimile

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, Colorado 80537-0599



## Auto-Reply Facsimile Transmission



TO:

Fax Sender at 1 650 327 3231

Fax Information

Date Received:

9/18/2006 6:56:51 PM [Eastern Daylight Time]

Total Pages:

4 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

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Sep 18 2006 3:59 PM 37F

At. 1635 P.

ABILITY TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P. O. Box 7598  
Loveland, Colorado 80537-0598

ATTORNEY DOCKET NO. 10004031-2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): John F. McEntee

Examiner: Jeff H. Aftergut

Serial No.: 10/591,037

Filing Date: October 21, 2003

Group Art Unit: 1733

Title: SEPTUM

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria VA 22313-1450

REQUEST FOR CONTINUED EXAMINATION (RCE) 37 CFR 1.114

Section (b) of 35 U.S.C. 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.  
See The American Inventors Protection Act of 1999 (AIPA).

Sir,

This is a Request for Continued Examination (RCE) under CFR 1.114 of the above-identified application.

**NOTE:** 37 CFR 1.114 is effective on May 29, 2000. If the above application was filed prior to May 29, 2000, applicant may wish to consider filing a continuous prosecution application (CPA) under CFR 1.536 (PTO/CPA/29) instead of a RCE as an eligible for the patent term adjustment protection of the AIPA. See Changes to Applicant's Examination and Provisional Application Practice, Official Notice, 65 Fed. Reg. 14484 (March 29, 2000), 1230 et. seq. Fed. Reg. 47 (June 11, 2000), which established RCE practice.

Submission under 37 CFR 1.114☒ Previously submitted:

- ☒ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on 08-09-2006  
☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on  
Other:

☐ Enclosed:

- ☐ Amendment/Reply  
☐ Affidavit(s)/Declarations(s)  
☐ Information Disclosure Statement (IDS)  
Other:

Miscellaneous

- ☐ Suspension of action is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months.  
The fee for this Suspension is (37 CFR 1.17(f)) \$130.00.  
☐ Other:

Rev. 08/05 (R-22)

Page 1 of 2

DOCKETED  
FAXED  
9/18/06



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): John F. McEntee

Serial No.: 10/691,037

Examiner: Jeff H. Aftergut

Filing Date: October 21, 2003

Group Art Unit: 1733

Title: SEPTUM

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria VA 22313-1450

**REQUEST FOR CONTINUED EXAMINATION (RCE) 37 CFR 1.114**

Subsection (b) of 35 U.S.C. 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995.

See The American Inventors Protection Act of 1999 (AIPA).

Sir:

This is a Request for Continued Examination (RCE) under CFR 1.114 of the above-identified application.

**NOTE:** 37 CFR 1.114 is effective on May 20, 2000. If the above application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under CFR 1.53(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 off. Gaz. Pat. Office 47 (Apr. 11, 2000), which Established RCE practice.

**Submission under 37 CFR 1.114**

☒ Previously submitted:

- ☒ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on 08-09-2006  
(Any unentered amendment(s) referred to above will be entered).
- ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on
- ☐ Other:

☐ Enclosed:

- ☐ Amendment/Reply
- ☐ Affidavit(s)/Declarations(s)
- ☐ Information Disclosure Statement (IDS)
- ☐ Other:

**Miscellaneous**

- ☐ Suspension of action is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months.  
The fee for this Suspension is (37 CFR 1.17(i)) **\$130.00.**
- ☐ Other:

*Doyle*  
**DOCKETED**

4 pgs total



RCE filing fee \$790.00

- ☐ A Petition for Extension of Time
- |                          |              |           |
|--------------------------|--------------|-----------|
| <input type="checkbox"/> | One month    | \$120.00  |
| <input type="checkbox"/> | Two months   | \$450.00  |
| <input type="checkbox"/> | Three months | \$1020.00 |
| <input type="checkbox"/> | Four months  | \$1590.00 |

Please charge to Deposit Account 50-1078 the sum of \$790.00 . At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 50-1078 pursuant to 37 CFR 1.25.

A duplicate copy of this transmittal letter is enclosed.

- ☐ I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Date of Deposit:

OR

- ☒ I hereby certify that this paper is being facsimile transmitted to the Commissioner for Patents on the date shown below.

Date of Facsimile: 09-18-2006

Typed Name: Donna Macedo

Signature: 

Respectfully submitted,

John F. McEntee

By 

Bret E. Field for John Brady  
Attorney/Agent for Applicant(s)

Reg. No. 37,620

Date: 09-18-2006

Telephone No. (408) 553-3584



\* \* \* Memory TX Result Report ( Sep. 18. 2006 4:00PM ) \* \* \*

1) BFF  
2)

ate/Time: Sep. 18. 2006 3:59PM

file	No. Mode	Destination	Pg(s)	Result	Page Not Sent
635	Memory TX	915712738300	P. 4	OK	

## Reason for error

E. 1) Hang up or line fail  
E. 3) No answer  
E. 5) Exceeded max. E-mail size

E. 2) Busy  
E. 4) No facsimile connection

AGILENT TECHNOLOGIES, INC.  
Legal Department, DL425  
Intellectual Property Administration  
P. O. Box 7099  
Lowland, Colorado 80537-0999

ATTORNEY DOCKET NO. 10004031-2

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): John F. McEntee

Serial No.: 10/891,037

Filing Date: October 21, 2003

Title: SEPTUM

Examiner: Jeff H. Aftergut

Group Art Unit: 1733

COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria VA 22313-1450

REQUEST FOR CONTINUED EXAMINATION (RCE) 37 CFR 1.114

Subsection (b) of 35 U.S.C. 132, effective on May 28, 2002, provides for continued examination of an utility or plant application filed on or after June 8, 1995.  
See The American Inventors Protection Act of 1999 (AIPA).

Sir:

This is a Request for Continued Examination (RCE) under CFR 1.114 of the above-identified application.

NOTE: 37 CFR 1.114 is effective on May 28, 2002. If the above application was filed prior to May 28, 2002, applicant may wish to consider filing a continued examination application (CEA) under CFR 1.534a (PTO/CPTO) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Prosecution Application Practice, Notice Rule, 65 Fed. Reg. 14823 (Mar. 28, 2000), 1232 et. Sec. Pat. Office 47 pgs. 11, 2000, which established RCE practice.

Submission under 37 CFR 1.114☒ Previously submitted:

☒ Consider the amendment(s)/reply under 37 CFR 1.110 previously filed on 08-09-2003  
(Any amended claim(s) referred to herein will be amended.)

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on  
Other:

☐ Enclosed:

☐ Amendment/Reply  
☐ Affidavit(s)/Declaration(s)  
☐ Information Disclosure Statement (IDS)  
Other:

Miscellaneous

☐ Suspension of action is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months.  
The fee for this Suspension is (37 CFR 1.17(f)) \$130.00.  
☐ Other:

4 pgs total